



# Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

## LOCAL COMMISSIONERS MEMORANDUM

Transmittal No: 19 OHIP/LCM-02

Date: March 26, 2019

Division: Office of Health Insurance Programs

**TO:** Local District Commissioners

**SUBJECT:** Immediate Need for Personal Care Services and Consumer Directed Personal Assistance Program (CDPAP)

The purpose of this Local Commissioners Memorandum (LCM) is to address frequently asked questions (FAQs) regarding Immediate Need and the requirement to expedite Medicaid eligibility determinations and needs assessments for Personal Care Services (PCS) or Consumer Directed Personal Assistance Services (CDPAS) when an applicant or recipient (A/R) attests to having an immediate need. These requirements, based on 18 NYCRR Sections 505.14(b) and 505.28, were recently outlined by the Department in 16 OHIP/ADM-02 and 16 OHIP/LCM-02.

- Q1: How does the local district assess whether an expedited Medicaid eligibility determination request based on immediate need is complete?
- A1: The district must follow the criteria outlined in 16 OHIP/ADM-02 and 18 NYCRR Sections 505.14(b) and 505.28. When individuals provide the district with a physician's order for PCS or CDPAS, a complete and signed Attestation of Immediate Need for Personal Care Services/Consumer Directed Personal Assistance Services (OHIP-0103), and a complete Medicaid application or request for an increase in coverage, the district must comply with the expedited time frames outlined in 16 OHIP/ADM-02. Local districts are reminded that an A/R's completed and signed attestation is self-authenticating, meaning it is considered the A/R's official and truthful statement of his/her circumstances and no further action by the LDSS is required.
- Q2: If an individual is privately paying for his or her home care, or if an adult child or other informal support of the individual is privately paying for the individual's home care, does that impact the individual's request for an expedited Medicaid eligibility determination based on immediate need?

- A2: Pursuant to the regulations, if no home care services agency is providing needed assistance to the A/R and the individual attests via the Department's attestation form (OHIP-0103) that no home care agency is providing needed assistance, then payment by the individual, an adult child or other informal support for home care provided by another source should not be considered during the review of a request for an expedited Medicaid eligibility determination for immediate need.
- Q3: If an individual is receiving home care paid for by third party insurance or Medicare, does that impact the individual's request for an expedited Medicaid eligibility determination based on immediate need?
- A3: Pursuant to the regulations, an attestation of immediate need must confirm that no third-party insurance or Medicare benefits are available to pay for needed assistance. If third party insurance or Medicare is paying, or is available to pay, for some, but not all, of the individual's needed assistance, the individual must attest to that in the attestation. The individual may request an expedited Medicaid eligibility determination based on immediate need if third party insurance or Medicare benefits are not available to pay for the full amount of needed assistance.
- Q4: Can the district complete an assessment for an individual who is residing in a Skilled Nursing Facility?
- A4: Yes. Local district assessors may need to go, and are encouraged to, to a Skilled Nursing Facility to complete an assessment when a request for an expedited Medicaid eligibility determination based on immediate need has been made.
- Q5: Does the physician who supplies the PCS or CDPAS order used to support a request for an expedited Medicaid eligibility determination and service assessment based on immediate need have to be enrolled in the New York State Medicaid program?
- A5: No. An individual may use an order from a physician not enrolled in Medicaid to request an expedited eligibility determination and assessment. However, services based on the assessment cannot be authorized without an order from a Medicaid enrolled physician.

Any questions should be directed to your local district Medicaid liaison at (518) 474-8887 for districts outside New York City, and in New York City, (212) 417-4500.



---

Donna Frescatore  
Medicaid Director  
Office of Health Insurance Program